



BE *AKAMAI*, BE WISE... BEWARE!

*A Resource Guide
for Seniors*

Executive Office on Aging, Hawai'i State Department of Health

(808) 586-0100 / www2.state.hi.us/ea/

This resource guide is written to let you know that there are organizations and people who can help you stay safe. Because situations and economic circumstances are different for each person, you must decide for yourself if you wish to accept help in difficult situations. Don't be afraid or embarrassed to accept help. Take care of yourself.



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TABLE OF CONTENTS

CHAPTER I:	BE <i>AKAMA!</i>	PAGE 4
	PLANNING AHEAD	
CHAPTER II:	BE WISE, BE SAFE!	PAGE 6
	ELDER ABUSE & NEGLECT	
	LAWS & PROTECTIONS	
CHAPTER III:	CAREGIVING	PAGE 12
	AREA AGENCIES ON AGING	
CHAPTER IV:	GUARDIANSHIP	PAGE 14
CHAPTER V:	BEWARE!	PAGE 16
	FINANCIAL ABUSE	
	IDENTITY THEFT	
CHAPTER VI:	RESOURCES	PAGE 18

CHAPTER I: BE *AKAMAI*!

Frailty, illness, mental incapacity, fear, language barriers, and poverty are just a few reasons elders may be unable to manage their own affairs and why many need help. Many elders need someone to take care of them but have no one to help. Some of our elders are being abused, neglected or exploited by families, acquaintances or strangers.

One of the first steps in preventing abuse is to keep yourself safe, happy and healthy. “Expect the best but plan for the worst” is a good motto to live by. Take steps now to plan for your future needs by deciding:

- Where you want to live,
- How to provide adequate financial resources for yourself,
- Who will take care of you if you become incapacitated,
- How you will remain independent and autonomous as long as possible.

Take care of yourself first. Avoid isolation. Keep in touch with family and friends. If something or someone doesn't seem right to you, trust your instincts.

Be akamai, be wise and beware!

PLANNING AHEAD

Start putting into place the following legal documents that can help prepare you for your future needs and possible physical or mental incapacity and avoid unnecessary guardianship or other court action.

- **A durable power of attorney** to authorize a trusted person as your agent (or attorney-in-fact) to act on your behalf when you cannot handle your affairs or if you want help.

- **An advance directive for health care** to let your family, friends and your doctor know what medical treatment you want or do not want in case you become mentally or physically incapacitated.

- **A will** to appoint a personal representative to settle your estate, distribute your worldly possessions to whom you choose and to take care of your remains when you die.

- **A living trust**, if appropriate to help with estate planning as well as possible incapacity. It can act as an alternative to guardianship and manage the property you place in it. **Caution:** Home property in a trust may disqualify you from Medicaid (not to be confused with Medicare). **Consult your attorney or Medicaid agency.**

- **A long term care plan** which may include buying private long term care insurance, qualifying for and using Medicaid or other public benefits, or sharing the financial obligations and your physical care with other family members if you become incapacitated.

As you prepare for your own future needs, take care of yourself and expect the best!

CHAPTER II: BE WISE, BE SAFE!

ELDER ABUSE

Abuse and neglect of the elderly are serious problems. Elder abuse has been described as a “hidden epidemic” in our society. It can be defined as physical or mental mistreatment or injury or neglect that harms or threatens an elderly person. It is often distinguished from ordinary crimes directed against the elderly by the normally repetitive character of the acts, often committed by a relative or other caregivers. Although Hawai’i’s laws do not specifically address “elder abuse,” there are various laws that provide protection to vulnerable and dependent adults, including the elderly.

WHO ARE POSSIBLE ABUSERS?

Abusers may be strangers or may be people you may already know—for example, a spouse, children, grandchildren, nieces and nephews, siblings, neighbors, friends or hired caregivers. Many abused elderly who are physically or mentally incapacitated fear losing whatever support the abuser may be providing. They may feel helpless and feel they have nowhere to go or no one to turn to. If you feel you are being abused or know someone who is being abused, help is available. Some resources are listed in the back of this booklet.



SOME OF THE CAUSES OF ELDER ABUSE

Some abusers purposefully hurt an older person, especially if the older person is vulnerable. Abusers may be stressed, or violent, or mentally disturbed, or may abuse drugs or alcohol. Some use abuse as a means of control, revenge or a “pay back” for acts that the older person may have committed in the past. Poverty or greed can cause abusers to steal money or property.

ABUSIVE BEHAVIOR

To maintain control, abusers may use a range of tactics, such as threats of institutionalization, denial of access to medical care or assistive devices, or isolation from family and friends. They may demand that victims continue to take care of them and the household, give them money or sign over financial resources. Medical or mental health problems may trigger violent behavior from the abuser. Attempts to help an older adult may lead to unintentional injury. The stress of caregiving may also lead to abuse, sometimes referred to as “caregiver stress.”

TYPES OF ELDER ABUSE

- Physical Abuse is the use of physical force that may result in bodily injury, physical pain or impairment, for example, cuts, bruises or burns.
- Sexual Abuse is non-consensual sexual contact of any kind with an elderly person.
- Emotional Abuse is the infliction of anguish, pain, or distress through verbal or non-verbal acts. It includes yelling, threats, humiliation or intimidation.
- Financial/Material Abuse is the illegal or improper use of an elder’s monies, funds, property (including an elder’s home or other real estate), or assets. It includes misuse of ATM or credit cards or forced “gifts.”

TYPES OF ELDER ABUSE *(continued)*

- **Neglect** is the refusal or failure to fulfill any part of a person's obligations or duties to an elderly person. It may result in starvation, dehydration, unsanitary living conditions, over-medication or lack of personal hygiene.

- **Abandonment** is the desertion of an elderly person by an individual who has physical custody of the elder or by a person who has assumed responsibility for providing care to the elder.

- **Self-Neglect** is the behavior of the older person that threatens his or her own health or safety.

SELF-NEGLECT

Some people may voluntarily or involuntarily adopt lifestyles that may seem strange to you. Others may exhibit unusual behavior due to a mental illness. Sometimes people reach the stage where they appear to cause harm to themselves and need protection. Deciding whether to intervene into a person's life because of his or her eccentricity or self-neglect is filled with legal, ethical and practical considerations. State protective service laws, civil rights laws and our basic rights to autonomy and self-determination very often limit the ability of concerned individuals and agencies to intervene. Sometimes the only recourse is to offer services and to attempt to persuade individuals to change their lifestyle.

SYMPTOMS OF SELF-NEGLECT

Those with early stages of dementia left untreated and undiagnosed are often susceptible to self-neglect. Other causes or symptoms of self-neglect may be illness, over medication, malnutrition, psychological changes, depression, substance abuse and poverty. Many older persons are too poor to properly take care of themselves. Obtaining appropriate medical treatment, social and legal services are steps in preventing and treating self-neglect.

LAWS THAT PROTECT ABUSED ELDERLY

While there are no specific laws in Hawai'i that address "elder abuse," there are various laws and numerous public and private agencies that serve to protect abused elderly. **The Hawai'i Penal Code** provides criminal penalties for crimes committed against all persons in Hawai'i regardless of age. In addition, there are enhanced penalties for certain crimes directed against older or disabled individuals.

Hawai'i's Dependent Adult Protective Services Law requires the **Adult Protective Services (APS)** unit of the **Department of Human Services** to investigate reports of suspected dependent adult abuse of those who are over 18 and who are dependent on another to provide care or other assistance in living. It provides for mandatory reporting by certain individuals and encourages voluntary reporting by everyone else. It requires APS to investigate and intervene in cases of suspected abuse whether committed in a private home or in health care facilities.

Further, the **Office of the State Long Term Care Ombudsman** investigates incidents of alleged abuse in licensed health care facilities such as nursing homes and care homes. **The Attorney General's Medicaid Investigations Division, the Adult Protective Services** and the **Hawai'i Disability Rights Center** that houses the **Protection and Advocacy Center** may be able to assist certain institutionalized and/or disabled victims. Domestic violence organizations assist victims abused by household members. Private legal remedies may include restraining orders and legal actions for breach of contract, tort and civil fraud.

Court action can also be taken to protect the elderly. **The State Attorney General Family Law Section** provides legal support for state agencies responding to dependent adults/elder protective issues. It may provide such legal services as guardianship and protective orders. **Family Court** handles dependent adult abuse issues, family or domestic violence. **District Courts** process temporary restraining orders (TRO) for individuals in non-familial relationships.

PROTECTIVE ORDERS

You can protect yourself from an abusive individual by obtaining a **“Temporary Restraining Order” (TRO)** from the District or Family Court. The Family Court will hear cases in which the abuser is a relative, former spouse, dating partner, someone with whom you have had a child, or someone with whom you have lived. Otherwise, the District Court may be able to hear the case. In all cases, you will need to fill out specific forms (available from the Clerk of the respective Courts) to give the Court information on the alleged abuse and certain contact information. You will also need to participate in a hearing on the matter and may need to pay a filing fee. The TRO will be effective when it is served.

SAFETY FIRST!

In an emergency, call 911 for help.

- If you feel threatened, leave your home if it is unsafe.
- Prepare an emergency get-away kit including cash, keys and medication to take with you. Keep it in a safe place where your abuser can't find it.
- Get medical attention if you have been injured.
- Obtain a temporary restraining order (TRO) for protection and to keep your abuser away.
- Report abuse to Adult Protective Services to help with your safety and protection.
- The Department of Human Services and your Area Agency on Aging can assist qualified individuals in obtaining emergency shelter, financial management, meals, transportation, home health services, medical and mental health services.



BE *AKAMAI*, BE WISE, BEWARE!

- Avoid isolation. Keep in touch with family and friends.
- Track your assets, and be aware of unusual changes.
- Safeguard your credit cards, bank cards and checkbooks.
- Use direct deposits for Social Security, pension and other income. Be careful when setting up joint accounts.
- Prepare for possible future mental or physical incapacity by getting your legal documents in order.
- Don't be ashamed if you are a victim. Get help.

CHAPTER III: CAREGIVING

Caring for an older person or a disabled person (or both) can be difficult, stressful and, sometimes, thankless. Those you are caring for may not appreciate what you are doing, may be demanding, abusive toward you or may not even recognize you. They may need constant supervision. Other family members may not be willing or able to help. You may not have enough time to sleep or take care of your own personal needs. If you do not have the proper tools, training, finances, support and respite, you can risk neglecting yourself as well as those you care for. Although each situation is different, try to get help or share some of your burdens with others rather than to risk “caregiver abuse.” Take care of yourself first, get some rest and, perhaps, a physical checkup.

DANGER SIGNS FOR CAREGIVERS:

- You are often angry at your situation.
- You are being abused by the person you are caring for.
- You are overwhelmed by the care that needs to be provided.
- You are having financial problems.
- You are always tired and you neglect yourself.
- You are turning to alcohol or drugs to deal with the situation.
- You resent that you are not getting enough support from other family members.

AREA AGENCIES ON AGING

If you do not suspect abuse or neglect, yet are concerned about an elder at risk, your Area Agency on Aging has information about elder care or caregiver assistance, such as:

- *Kupuna Care* for elders and respite services for caregivers,
- Meals on Wheels,
- Home Health Services,
- Help in bathing, transportation and shopping,
- Hospice Care for the terminally ill, and,
- Legal services for socially or economically needy elders.

TIP

The **Health Insurance Portability and Accountability Act of 1996 (HIPAA)** protects patients' health information. A caregiver may need to have the care recipient's health care power of attorney or other written authority to access information about the care recipient's medical condition and medical records.

A general durable power of attorney and/or a living trust are a couple of tools that can provide the authority necessary to assist in managing the care recipient's personal, financial and legal affairs. Without proper legal documents in place, lengthy and costly guardianship proceedings may be necessary if the care recipient becomes mentally incapacitated.

CHAPTER IV: GUARDIANSHIP

When a person is incapable of making the necessary decisions for handling his or her own affairs due to mental retardation, mental illness, or other conditions, and no effective alternatives have been set up, it may be appropriate to seek guardianship or conservatorship for that person.

A guardian for an incapacitated person is appointed by the court. Both guardianship of the person and guardianship of the property (also called conservatorship) can involve lengthy and often expensive procedures. The petitioner will need to provide medical and personal information about the incapacitated person, the person's spouse, parents, children, other close relatives, current custodian or guardian, and the proposed guardian. The court will require confirmation of the incapacitated person's condition, usually through a written report from a doctor's examination.

The court must also have jurisdiction over the person and property and find that the proposed guardian or conservator is capable, that the appointment is in the incapacitated person's best interest and that it is necessary or desirable to continue the care and supervision of the incapacitated person.



PRO SE GUARDIANSHIP

A petition can be filed on behalf of an incapacitated person through a legal service agency, private practice attorney or potential guardian. When a potential guardian petitions the court for the guardianship of the person of an incapacitated person without the services of a lawyer, it is called *pro se* guardianship. Currently, Pro Se Guardianship Packets are available from the Family Court.

THE OFFICE OF THE PUBLIC GUARDIAN (OPG)

The OPG can be appointed to be the guardian for mentally incapacitated adults who are income eligible and have no willing and suitable family member, relative or close friend to serve as guardian. While the OPG can be appointed guardian of the ward, another organization or person must be the one to file the petition with the court and obtain the appropriate documents to name the OPG as guardian.

SOME ALTERNATIVES TO GUARDIANSHIP

While guardianship is very restrictive, lengthy and costly, alternatives to guardianship can sometimes accomplish the same purpose, for example:

- Obtaining a durable power of attorney for financial affairs,
- Obtaining a health care advance directive for health care decisions,
- Being appointed as a surrogate decision maker for health care decisions for those who are mentally incapacitated and have not made a power of attorney or advance directive for health care,
- Applying to be a representative payee for Social Security or Supplemental Security Income payments, and,
- Maintaining a joint account to pay bills.

CHAPTER V: BEWARE!

Financial exploitation can happen to anyone. Abusers can be charming. They often pretend to be your friend and pressure you into giving them gifts. They may even say they're doing you a favor. Trust your instincts. Don't be fooled. Be *akamai*. Ask questions. Don't sign anything you don't understand. Get advice from your bank, an attorney, or financial advisor before you commit yourself.

Financial exploitation includes abuse of a power of attorney, misuse of ATM or credit cards and joint bank accounts, misappropriation of pension and benefit checks, illegal property transfers and a variety of frauds and scams.

If you know someone who is being financially abused or exploited and needs help, call Adult Protective Services or the police. If you are a victim of unfair business practices, scams, deceptive advertising, or other consumer related activities, file a complaint with the **Office of Consumer Protection, State Department of Commerce and Consumer Affairs**. That office can conduct an investigation and if warranted, may take legal action. The **Federal Trade Commission** may be able to assist with internet, telemarketing, identity theft and other fraud related complaints.

IDENTITY THEFT

Identity theft occurs when someone uses your personal information without your permission to commit fraud and other crimes. When thieves steal your personal information such as your name, Social Security Number, credit card number, checking account number or other identifying information, you may be refused credit, housing, bank loans or you may even be accused of a crime you did not commit. You may have to spend much time and money to clear up your name and credit record even when it is not your fault. You may be a victim of identity theft if you:

- Fail to receive bills or other mail,
- Receive credit cards you did not apply for,
- Are denied credit for no apparent reason, or,
- Receive calls and letters from debt collectors or companies, regarding merchandise or services you did not pay for or order.

BE *AKAMAI*!

- Do not give out your Social Security Number without a good reason.
- Shred your personal bank checks and credit card receipts before disposing them.

- Be suspicious and careful if unsecured websites ask you for personal information which may lead to identity theft.

- Close any accounts that you think have been tampered with.
- File your complaint with the Federal Trade Commission (FTC) 1-877-438-4338. Visit their website at www.consumer.gov/idtheft/ to obtain ID Theft Affidavits.

- If you are a victim of identity theft, contact the three major credit bureaus to place a fraud alert:

- | | |
|---------------|----------------|
| • Equifax: | 1-800 525-6285 |
| • Experian: | 1-888-397-3742 |
| • TransUnion: | 1-800-680-7289 |

CHAPTER VI: RESOURCES

In an emergency, call 911.

Be calm and be clear about the location of the emergency.

CHAPTER I: BE *AKAMA!*

LEGAL SERVICES

For those who are at least 60 years old and are socially and or economically needy.

- Legal Aid Society of Hawai‘i, O‘ahu 536-4302
- Legal Aid Society of Hawai‘i, Hawai‘i County
 - Hilo 934-0678
 - Kona 329-8331
- Legal Aid Society of Hawai‘i, Maui County 244-3731
- Seniors Law Center, Kaua‘i 246-8868
- University of Hawai‘i Elder Law Program (UHELP), O‘ahu 956-6544

HEALTH CARE DIRECTIVES WEBSITES

- www.kokuamau.org
- www.myhealthdirective.com

HAWAI‘I STATE BAR ASSOCIATION – LAWYER REFERRAL SERVICE:

(808) 537-9140

VOLUNTEER LEGAL SERVICES HAWAI‘I

(808) 528-7046

CHAPTER II: BE WISE, BE SAFE!

ADULT PROTECTIVE SERVICES (APS) ADULT AND COMMUNITY CARE SERVICES BRANCH, DEPARTMENT OF HUMAN SERVICES (DHS)

To report abuse, neglect or exploitation of dependent adults age 18 and older, call APS in your county. Provides protective services and referrals as appropriate.

• O'ahu	832-5115
• Hilo/Hamakua/Puna	933-8820
• Kona/Kohala/Kamuela/Ka'u	327-6280
• Kaua'i	241-3432
• Maui	243-5151
• Lana'i	565-7104
• Moloka'i	553-1763

OFFICE OF HEALTH CARE ASSURANCE, DEPARTMENT OF HEALTH
Licenses care homes. (808) 692-7400

TEMPORARY RESTRAINING ORDER - FAMILY ADULT SERVICE BRANCH OF THE FAMILY COURT

To request a temporary restraining order in abusive family relationships.

• O'ahu	538-5959
• Hawai'i	933-1311
• Kaua'i	246-3300
• Maui	244-2706

TEMPORARY RESTRAINING ORDER - OTHERS DISTRICT COURT

To request a temporary restraining order (TRO) in non-familial relationships.

• O'ahu	538-5151
• Hawai'i	961-7430
• Kaua'i	246-3301
• Maui	244-2838

CHAPTER II: BE WISE, BE SAFE! *(continued)*

DOMESTIC VIOLENCE AND CLEARINGHOUSE HOTLINE

Domestic violence involving victims in familial relationships.

- Emergency 911
- Domestic Violence Clearinghouse
and Legal Hotline 531-3771
- Neighbor islands 1-800-690-6200

HAWAI'I DISABILITY RIGHTS CENTER: 949-2922
(Protection and Advocacy Center for the State of Hawai'i)

LONG TERM CARE OMBUDSMAN

EXECUTIVE OFFICE ON AGING (808) 586-0100

Provides assistance and advocacy for residents of licensed facilities including nursing homes and adult residential care homes.

OMBUDSMAN REPRESENTATIVE PROGRAM

EXECUTIVE OFFICE ON AGING (808) 586-0100

PROJECT REACH SERVICES 543-8468

An O'ahu demonstration project for elder abuse and neglect prevention. Services for persons at risk of abuse and neglect, poor self-care, previous experience with abuse and neglect.

STATE ADULT MENTAL HEALTH ACCESS LINE

Helps individuals facing threats of suicide or other mental health emergencies. Helps individuals access mental health services, suicide, crisis or emergency mental health services and provides crisis outreach.

- O'ahu 832-3100
- Neighbor islands 1-800-753-6879

VICTIM WITNESS ASSISTANCE PROGRAM COUNTY OFFICE OF THE PROSECUTING ATTORNEY

Assistance, information and support services for victims or witnesses going through the criminal justice system.

- O‘ahu 547-7401
- Hawai‘i 934-3306
- Kaua‘i 241-1888
- Maui 270-7695

CHAPTER III: CAREGIVING

CAREGIVER SUPPORT GROUPS

To share information on family caregiving issues, contact the Executive Office On Aging’s Family Caregiver’s Network.

- Family Caregiver’s Network www2.state.hi.us/eoa/
- All islands contact your Area Agency on Aging

COUNTY AREA AGENCIES ON AGING

Elder care services and caregiver assistance for frail, vulnerable elders and caregivers. Agency network services include information and referral, outreach, case management, referrals to social, health, financial, legal, support services. *Kupuna Care*, in-home and community-based services include adult day care, assisted transportation, attendant care, case management, chore services, home delivered meals, personal care, and homemaker/housekeeper.

- Honolulu Elderly Affairs Division 523-4545
- Hawai‘i County Office of Aging 961-8600
- Kaua‘i Agency on Elderly Affairs 241-6400
- Maui County Office on Aging 270-7774
- Moloka‘i 553-5241
- Lana‘i 565-6282

CHAPTER III: CAREGIVING *(continued)*

SAGE PLUS (808) 586-7299 or 1-888-875-9229
Volunteers provide free information, assistance, and counseling on Medicare, Medicaid, Medicare+Choice, Medigap, long term care insurance and related health insurance options. Information on Medicare prescription drug discount card.

SAGEWATCH PROGRAM 586-7281 or 1-800-296-9422
Provides information about Medicare/Medicaid fraud, waste and abuse. Helps beneficiaries who may believe they are victims of fraud or abuse file claims with appropriate agencies.

NATIONAL ELDERCARE LOCATOR 1-800-677-1116
Connects caregivers with information about senior services.
• www.eldercare.gov/

NURSING HOME COMPARE
Compares nursing homes in your area.
• www.medicare.gov/

**STATE ATTORNEY GENERAL MEDICAID
INVESTIGATION DIVISION** (808) 586-1058

CHAPTER IV: GUARDIANSHIP

OFFICE OF THE PUBLIC GUARDIAN OF THE JUDICIARY
Serves as guardian of mentally incapacitated adults if there is no willing or appropriate alternate persons to serve as guardian.

- | | |
|-------------------|----------|
| • O'ahu | 548-0006 |
| • Hawai'i | 961-7660 |
| • Maui and Kaua'i | 244-2821 |

CHAPTER V: BEWARE!

CREDIT REPORTING COMPANIES

- Equifax: 1-800 525-6285
- Experian: 1-888-397-3742
- TransUnion: 1-800-680-7289

FEDERAL TRADE COMMISSION (FTC) 1-877 438-4338

- www.consumer.gov/idtheft/

OFFICE OF CONSUMER PROTECTION, HAWAI'I STATE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Investigates alleged violations of consumer protection laws, takes legal action to stop unfair or deceptive practices in the marketplace and educates the consumer public and businesses regarding their respective rights and obligations.

- O'ahu 586-2630
- Hawai'i 974-4000 x 62630
- Kaua'i 274-3141 x 62630
- Lana'i/Moloka'i 1-800-468-4644
- Maui 984-2400 x 62630

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The State of Hawai'i
provides access to our activities
without regard to race, color,
national origin (including language),
age, sex, religion or disability.

Write our
Affirmative Action Officer
at Box 3378
Honolulu, HI 96801-3378
or call (808) 586-4616 (voice)
within 180 days of a problem.

